

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

OLLIE GREENE, et al.,

Plaintiffs

v.

TOYOTA MOTOR CORPORATION, et al.,

Defendants.

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CAUSE NUMBER: 3:11-cv-0207-N

**THE TOYOTA DEFENDANTS' JOINDER IN STRICK TRAILERS, LLC'S
MOTION TO STRIKE PLAINTIFFS' "RULE 26(e)(2) EXPERT SUPPLEMENTATION"**

TO THE HONORABLE COURT:

COME NOW, Defendants Toyota Motor Corporation, Toyota Motor Engineering & Manufacturing North America, Inc., and Toyota Motor Sales, U.S.A., Inc. (collectively “the Toyota Defendants”) and file their Joinder in Strick Trailers, LLC’s Motion to Strike Plaintiffs’ “Rule 26(e)(2) Expert Supplementation,” and would respectfully show the Court the following:

**I.
JOINDER**

On June 3, 2014, Strick Trailers, LLC filed its *Motion to Strike Plaintiffs’ “Rule 26(e)(2) Expert Supplementation”* (Doc. No. 696), asking the Court for an order striking Plaintiffs’ “Notice of Service of Plaintiffs’ Rule 26(e)(2) Supplementation” (the “Notice”) (Doc. No. 683) and excluding all of the late-filed testimony and evidence contained in the nine line items identified by Plaintiffs in the Notice. The Toyota Defendants hereby join in that motion.

The affidavits and other evidence Plaintiffs seek to “supplement” in the Notice are not the supplemental materials contemplated by Fed. R. Civ. P. 26(e)(2), but are actually new opinions

and supporting evidence, undisclosed in Plaintiffs' Rule 26 expert reports, that are subject to automatic and mandatory exclusion under Fed. R. Civ. P. 37(c)(1). *See Trinity Homes, LLC v. Ohio Cas. Ins. Co.*, No.: 1:04-cv-01920, 2011 WL 2261297, *3-4 (S.D. Ind. 2011) (acknowledging that Rule 26(e)(2) does not define the term "supplemental" but a common sense interpretation and numerous case opinions suggest that it does not include new or contradictory opinions); *see also* Toyota's Motion to Exclude Untimely Disclosed File Materials and Data of Jeff G. Vick, Doc. Nos. 377, 378.

II.

CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants Toyota Motor Corporation, Toyota Motor Engineering & Manufacturing North America, Inc., and Toyota Motor Sales, U.S.A., Inc., respectfully requests that this Court grant Strick Trailers, LLC's motion, strike Plaintiffs' "Notice of Service of Plaintiffs' Rule 26(e)(2) Supplementation" (the "Notice") (Doc. 683), and exclude all of the late-filed testimony and evidence contained in the nine line items identified by Plaintiffs in the Notice.

Respectfully submitted,

/S/ DAVID P. STONE

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INC., AND TOYOTA MOTOR SALES,
U.S.A., INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all known counsel of record in this cause in accordance with the Federal Rules of Civil Procedure on this 6th day of June, 2014.

/S/ DAVID P. STONE